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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,847	12/09/2003	Arnold H. Bramnick	BOC9-2003-0037 (406)	5226
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AKERMAN SENTERFITT P. O. BOX 3188 WEST PALM BEACH, FL 33402-3188			EXAMINER VETTER, DANIEL	
			ART UNIT 3628	PAPER NUMBER
			MAIL DATE 03/04/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/730,847	Applicant(s) BRAMNICK ET AL.	
	Examiner DANIEL P. VETTER	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-10,12-18 and 20-25 is/are pending in the application.
 4a) Of the above claim(s) 8,9,17 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,10,12-16,18 and 20-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Status of the Claims

1. Claims 1-25 were previously pending in this application. Claims 1, 10, and 18 were amended, and claims 2, 11, and 19 were canceled in the reply filed November 13, 2007. Claims 1, 3-10, 12-18, and 20-25 are currently pending in this application, of which 8, 9, 17, and 25 are withdrawn.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 17, 2007 has been entered.

Response to Arguments

3. Applicant's amendments overcome the rejections of claims 1-7, 10-16, and 18-24 under § 112, second paragraph, and they are withdrawn.

4. Applicant argues that Yu does not select the flight to cancel from among the cancellation candidates according to the same procedure recited in the claims. This argument is unpersuasive because the procedure as claimed is recited broadly enough to read upon the procedure described in Yu. Comparative analyses among flights in Yu is performed by the optimization engine in accordance with the marginal values of the flights and the user's preferences (e.g., column 10, lines 1-14), and the optimal solution that is generated tells the user which flight to cancel among the group (column 9, lines 29-31). It would not make sense to interpret the cited portions of Yu as performing an action other than that which is broadly recited in the claims (i.e., canceling the flight for which the least amount of revenue will be lost) when analyzing the reference as a whole. Selecting a higher revenue flight for cancellation would not optimize flight

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operations, and therefore would lead to the opposite result of that which Yu's system is intended to perform (i.e., the enterprise would lose more money than was necessary, which is not optimal), and accordingly one of ordinary skill in the art would not interpret it as such (see *a/so* column 19, lines 11-36 - discussing flight revenues and minimization of canceled flights).

5. Applicant's argument that Yu's reference to costs and revenues does not explicitly consider "values for time-critical cargo and coupons held by passengers assigned to each flight" as recited in the amended independent claims is moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3-7, 10, 12-16, 18, and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yu, et al., U.S. Pat. No. 6,314,361 (Reference A of the PTO-892 part of paper no. 20070319) in view of Lanigan, Sr., U.S. Pat. Pub. No. 2003/0061085 (Reference A of the attached PTO-892).

8. As per claims 1, 10, and 18, Yu teaches a means for and obtaining flight financial data from at least one flight financial data store for at least two flight cancellation candidates (column 8, lines 17-19, 29-31); a means for and processing said flight financial data for said flight cancellation candidates to determine for each flight cancellation candidate an amount of revenue lost by canceling a flight corresponding to a particular flight cancellation candidate (column 8, lines 22-23, 55-56; column 9, lines 20-28; column 10, lines 6-14), wherein amounts of revenue include values for coupons held by passengers assigned to each flight corresponding to the particular flight cancellation candidate (; a means for and presenting for each flight cancellation

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candidate the amount of revenue lost determined based upon the financial data for said flight cancellation candidates (column 8, lines 22-23, 56-57; column 9, lines 29-31); and means for and selecting from among said at least two flight cancellation candidates a flight cancellation candidate and canceling the flight corresponding to the selected flight cancellation candidate if the amount of revenue lost by canceling the corresponding flight is less than the revenue lost by canceling any other flight corresponding to a non-selected flight cancellation candidate (column 10, lines 1-14; column 11, lines 53-55).

Yu does not explicitly teach that amounts of revenue include values for time-critical cargo; which is taught by Lanigan (§ 0038). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to include values for time-critical cargo as taught by Lanigan into the broadly disclosed flight revenue values of Yu because this is merely a combination of old elements, and in the combination each element would have performed the same function it did separately (i.e., identify a portion of total flight revenue). One of ordinary skill in the art would also have recognized that the results of the combination were predictable.

9. As per claims 3, 12, and 20, Yu in view of Lanigan teaches the limitations of claims 1, 10, and 18 as described above. Yu further teaches said flight financial data comprises a value of at least one selected from the group consisting of cargo, United States Postal Service mail, passenger ticket, and fuel requirements data (column 9, lines 13-16).

10. As per claims 4, 13, and 21, Yu in view of Lanigan teaches the limitations of claims 1, 10, and 18 as described above. Yu further teaches said flight financial data is provided in real time (Abstract).

11. As per claims 5, 14, and 22, Yu in view of Lanigan teaches the limitations of claims 1, 10, and 18 as described above. Yu further teaches means for and obtaining flight operations data (column 8, lines 17-19, 51-54), said flight operations data being utilized by said obtaining step to determine flight cancellation candidates (column 11, lines 25, 54).

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12. As per claims 6, 15, and 23, Yu in view of Lanigan teaches the limitations of claims 5, 14, and 22 as described above. Yu further teaches said flight operations data comprises at least one selected from the group consisting of crew and plane availability data (column 9, lines 17-18).

13. As per claims 7, 16, and 24, Yu in view of Lanigan teaches the limitations of claims 1, 10, and 18 as described above. Yu further teaches said flight financial data store comprises at least one selected from the group consisting of cargo, crew, reservations, and flight operations information (column 8, lines 40-42).

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shetty, et al., U.S. Pat. Pub. No. 2003/0191678 (Reference B of the attached PTO-892) teaches a scheduling system that reschedules based on the affect such rescheduling has on cascading costs; wherein the costs for an airline set of schedules include factors such as the affect on passengers, the affect on profit, and other factors.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL P. VETTER whose telephone number is (571)270-1366. The examiner can normally be reached on Monday through Thursday from 8am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W Hayes/

Supervisory Patent Examiner, Art Unit 3628